

29th March 1923] [Sir Charles Todhunter]

the normal expenditure of the local body and see whether there is sufficient balance of normal revenue over normal expenditure to supply the service of the loan. Recently we have had one or two cases in which we have not had that normal balance. I do not know whether there are other cases on their way in which a normal balance can be found; but I am not aware of any large number of cases pending or awaiting disposal in the Government office."

The motion was by leave withdrawn.

The demand was put and passed and the grant was made.

IV

THE MADRAS HINDU RELIGIOUS ENDOWMENTS BILL, 1922—*cont.*

Clause 22.

Sub-clause (1).

(Amendment No. 116.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I beg to move—

In item (b) (iv) between the words 'trustee' and 'of' insert the words 'or servant'.

"Sir, this clause relates to the disqualification of candidates and members of the committee. One of the disqualifications mentioned in item (iv) of this sub-clause (b) is being a trustee of a temple over which the committee has jurisdiction.

"What I wish to add is that the servant of a temple over which the committee has jurisdiction should not also be qualified to become a committee member. It is obvious that being a servant of the temple, he should be in a subordinate position and should not assume the role of a *committeedar* who has got the right of general superintendence over the temple and who has also got some control over the trustee under whom as a servant he is expected to serve. Under these circumstances, I think that a servant of the temple ought also to be disqualified from being a *committeedar*."

The hon. the RAJA OF PANAGAL :—"Sir, I am in entire sympathy with the object of my hon. friend's amendment. But the difficulty is that a servant may be either a salaried servant or a mirasi servant. I do not know whether my hon. friend wants the exclusion of merely salaried servants or mirasi servants also. If he makes his position clear, I will be able to tell him what the Government proposes to do in this connexion."

Rai Bahadur T. M. NARASIMHACHARLU :—"I am glad that the hon. the Minister has somewhat cleared the position. I mean only a salaried servant and not a mirasi servant."

The hon. the RAJA OF PANAGAL :—"If that is his object, I think the hon. Member might withdraw his amendment and allow me to move an amendment in less ambiguous language."

The amendment was by leave withdrawn.

(Amendment No. 117.)

The hon. the RAJA OF PANAGAL :—"Sir, I beg to move.

In item (b) (iv) between the words 'trustee' and 'of' insert the words 'or salaried servant'.

The amendment was put and carried.

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Clause 22—cont.

Sub-clause (2).

(Amendment No. 118.)

Mr. C. V. VENKATARAMANA AYYANGAR :—“Sir, I beg to move—*For the word ‘reversed’ substitute the words ‘cancelled or reduced to a period of not more than six months.’*

“I do not wish to say much on this amendment seeing how things are going on in this House. Though one is apt to be desperate with regard to these amendments, for my part, I am a little optimistic so far as this amendment is concerned and I hope that it will be accepted. My amendment is merely a formal one. It may happen that the lower court has sentenced a man to a very long term of imprisonment. On appeal the appellate court might consider the sentence to be too severe and might reduce it to a period of six months or a shorter period. To be consistent it is necessary that the decision of the higher court should be respected as much as the decision of the lower court. It is with the intention of giving effect to this that I move this amendment.”

The hon. the RAJA OF PANAGAL :—“I do not quite see the difference which my hon. friend wants to make out. Anyhow there is no objection to accept the amendment of my hon. friend.”

The amendment was put and carried.

(Amendment No. 119.)

Mr. R. SRINIVASA AYYANGAR :—“Sir, I beg to move—*After the words ‘undergoing the sentence’ insert the words ‘or during the pendency of appeal or revision therefrom’.*

“My amendment is intended to cover a particular class of cases which are likely to arise often. But as it is, sub-clause (2) of clause 22 limits the disqualification only to one class of cases. It does not seek to place any restriction upon a person who has been sentenced to transportation or to imprisonment for a period of more than six months and who is not actually undergoing the sentence. There are instances of a person sentenced to imprisonment but not actually undergoing the imprisonment by virtue of the appellate court or the court of revision suspending the operation of the sentence by enlarging the accused on bail. It is only to bring in such a class of cases within the scope of disqualifications that I move this amendment. I will illustrate the point to make my position clear.”

The hon. the RAJA OF PANAGAL :—“Sir, the hon. Member need not trouble himself with illustrating his position. The Government are prepared to accept the amendment in a modified form. If the hon. Member would withdraw his amendment, the hon. Mr. Gopalaswami Ayyangar, will move the amendment.”

The amendment was by leave withdrawn.

(Amendment No. 120.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“Sir, I beg to move—*After the words ‘undergoing the sentence’ insert the words ‘or during the period for which such sentence may have been suspended’.*

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Clause 22—cont.

“Sir, what is apparently at the back of the mind of the hon. Member, Mr. Srinivasa Ayyangar, is that when a person who is sentenced to imprisonment appeals to the higher court, and, pending disposal of the appeal, he is enlarged on bail, he should not be allowed to stand for membership even during the period of the suspension of the sentence. That object will be better achieved by the language I have suggested.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“In the case of rigorous imprisonments, for instance, suspension of sentence 1 p.m. generally means that even though the sentence is suspended, the man would still be in jail, but it will not cover the case of a person being on bail.”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“May I explain that, Sir ? I think it is my experience as a magistrate that where a person has been sentenced to rigorous imprisonment and, as an appellate Court, I suspend the sentence, I suspend not merely the rigorous nature of it, but the whole sentence. It may be that in particular cases an application may be made for suspending only the rigorous portion of the sentence in which case the man may continue to be in jail.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“Since my hon. friend appeals to his experience as a magistrate, I do not want to directly contradict him. But, unfortunately, if what the hon. Member said happens to be wrong and what I said to be right, then there is room for some mischief resulting. I therefore suggest for consideration the addition of the words ‘or in abeyance’ after the words ‘may have been suspended’.”

Rai Bahadur T. M. NARASIMHACHARLU :—“Sir, I wish to oppose the amendment moved by the Government. For, if that amendment were to find a place here, suppose a man is convicted and he is given a sentence of imprisonment for more than six months ; after that he is released on bail and the election comes in ; according to this sub-clause he will be disqualified for election when he is on bail. That is the nature of that amendment.”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“That is the nature of Mr. Srinivasa Ayyangar’s proposal, Sir.”

Rai Bahadur T. M. NARASIMHACHARLU :—“When he is on bail and by the time the appeal is taken up and the sentence reversed and he is acquitted, the election would have gone off, and he would have lost the chance of being elected. Therefore, Sir, why should a disqualification be imposed here imaginarily which will have the effect of depriving him of his right to be elected to the office in case his sentence is reversed on appeal. Therefore, what the Government have originally drafted, viz., ‘while undergoing the sentence’, etc., will do and let us not also extend his disqualification to the time when he is on bail after which he may be acquitted altogether. Therefore, Sir, I oppose this amendment whether it proceeds from Mr. Srinivasa Ayyangar or from Mr. Gopalaswami Ayyangar.”

Mr. R. SRINIVASA AYYANGAR :—“I should like to support this amendment. Disqualification is not limited only to election, but to appointment as well.”

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Clause 22--cont.

Rai Bahadur T. M. NARASIMHACHARLU :—“The question of appointment no longer exists, because we have resolved that all the *committeedars* shall be elected.”

Mr. R. SRINIVASA AYYANGAR :—“There is still the question of appointment, Sir. If only my hon. friend had turned his attention to clause 2C, he would have found that the Board had still the power of appointment, though under exceptional circumstances, which we shall have to tackle later on. Therefore, it is not as if the question of appointment has altogether automatically gone out of the field.”

The following amendment was then put and carried :—

After the words ‘undergoing the sentence’ insert the words ‘or during the period for which such sentence may have been suspended or in abeyance’.

(Amendment No. 121.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“Sir, the amendment of which I have given notice runs as follows :—

For the proviso substitute the following :—

‘Provided the Local Government shall in every case where in its opinion the conviction is not for an offence involving moral turpitude and may in every other case direct that such sentence shall not operate as a disqualification and provided also that the Local Government may reduce the said period of five years.’

“The two points on which the proviso which I suggest differs from the proviso as hon. Members will find in the sub-clause as it is, are these, that the Local Government should have no discretion by way of saying that a sentence shall operate as a disqualification when the offence of which a person has been convicted does not in its opinion involve moral turpitude; and the discretion is allowed only in cases wherein the offence involves moral turpitude and in that case it is for the Local Government to say that the offence that has been committed is of such a serious or heinous character as to justify the man not being chosen as a member of the committee.

“The second point on which my proviso differs from the proviso as found in the original Bill is that the Local Government is given the discretion in appropriate cases to reduce the period during which a person may not be eligible for committee membership to below five years. As it is, the Bill makes it necessary that this period of disability should run to five years. I simply give the Local Government, according to my proviso, the discretion to reduce that period in appropriate cases. It is easily intelligible that cases may arise wherein for a technical offence . . .”

Mr. C. V. VENKATARAMANA AYYANGAR :—“There is no quorum in the House, Sir.”

The hon. the DEPUTY PRESIDENT :—“Is the hon. Member anxious to prolong the sitting?”

Mr. C. V. VENKATARAMANA AYYANGAR :—“I am only anxious to mention the absence of a quorum, Sir.”

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Clause 22—cont.

The hon. the DEPUTY PRESIDENT :—“ In the House of Commons they are used to go on discussing even when there is no quorum.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“ I simply wanted to say, Sir, that the subject being important, hon. Members should be here rather than in the Committee room.”

At this stage the number required for the quorum having been made up, the discussion was proceeded with.

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ I was mentioning, Sir, that my proviso would give some discretion to the Local Government by way of reducing the period of disability referred to in sub-clause (2). As I was saying, it is easy to conceive of a case wherein a person due to the impulse of the moment might have committed an offence which satisfied the particulars referred to in sub-clause (2) but still in respect of which the Local Government may be under the impression on account of the circumstances surrounding the case that the period of disability should not extend to five years.

“ With these few words, I beg to commend this amendment to the acceptance of the House.”

The hon. the RAJA OF PANAGAL :—“ I am afraid, Sir, I cannot accept the amendment which my hon. friend opposite has moved. It involves a principle. The concession must be discretionary and not obligatory. The provision as drafted is in consonance with similar provisions in the Local Boards and District Municipalities Acts and the Government are not prepared to go further in the matter.”

The amendment was put and lost.

Sub-clause (3).

(Amendment No. 122.)

Rai Bahadur T. M. NARASIMHACHARLU :—“ The amendment that stands in my name runs as follows :—

In item (d) between the words ‘trustee’ and ‘of’ insert the words ‘or servant.’

“ I move it formally, Sir.”

The hon. the RAJA OF PANAGAL :—“ I accept it formally, Sir, but with the same proviso that it should apply only to salaried servants. If the hon. Member withdraws his amendment, I shall move another, Sir.”

Rai Bahadur T. M. NARASIMHACHARLU :—“ I withdraw my amendment formally, Sir.”

The amendment was by leave withdrawn.

(Amendment No. 123.)

The hon. the RAJA OF PANAGAL :—“ My amendment is as follows :—

In item (d) between the words ‘trustee’ and ‘of’ insert the words ‘or salaried servant.’”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“ Sir, in this case and in other cases we are handicapped by not having before us the alternative amendments proposed by the Government. May I suggest that in such

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Clause 22—cont.

cases at least typed copies may be furnished to us? I hope that at least in future, whenever alternative amendments are suggested by Government, they will give us notice so that we may be in a position to see what the exact nature of the amendment is."

The hon. the RAJA OF PANAGAL :—"Sir, that question does not arise in this case, because it is only a mere verbal amendment, adding the word 'salaried' before 'servant'."

The amendment was put and carried.

(Amendment No. 124.)

1-15 p.m. Mr. R. SRINIVASA AYYANGAR :—"I beg to move—

Add at the end of item (f) the following :—

'The President shall report this fact to the committee at its next meeting and also intimate the same in writing to the said member.'

"This is purely of a formal character."

The hon. the RAJA OF PANAGAL :—"In order to cut short the discussion, I wish to say that Government are prepared to accept it."

Mr. R. SRINIVASA AYYANGAR :—"I am very glad that the hon. Minister has accepted it."

The amendment was put to the House and carried.

(Amendment No. 125.)

Mr. R. SRINIVASA AYYANGAR :—"I beg to move—

In the first proviso for the words 'his so ceasing to be a member' substitute the words 'the receipt of notice by him from the President that he has ceased to be a member.'

Sir, this is an amendment consequential to that which has been accepted by the hon. Minister. This is to give effect to that amendment, and I trust that the Government will see its way to accept it. This will bring it into line with the spirit of the amendment that has just been accepted by the hon. Minister."

The hon. the RAJA OF PANAGAL :—"I accept this too."

The amendment was put to the House and carried.

(Amendment No. 126.)

Mr. R. SRINIVASA AYYANGAR :—"I beg to move—

In the second proviso for 'thrice' substitute 'twice'.

I move this for the reason that it will be offering a premium to the defaulting trustees if the power of restoring them is carried on more than twice. The proviso says

that a member of a committee shall not be so restored more than thrice during his term of office.

"Why on earth should three chances be given to this defaulting member, I am unable to conceive. Once a gentleman commits default he is

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Clause 22—cont.

restored, and when again he commits a default he is also restored. Instead of stopping there, why should one more chance be given to that gentleman? Therefore I submit that it is necessary to substitute 'twice' for 'thrice'."

The hon. the RAJA OF PANAGAL :—"I am not prepared to accept this because more elections mean more money to be spent. The shorter the time allowed, the more the elections. In these circumstances, I am not accepting the amendment."

The amendment was by leave withdrawn.

Clause 22, as amended, was put to the House, carried and added to the Bill.

Clause 23.

(Amendment No. 127.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—"I beg to move, Sir—

For the word 'five' substitute the word 'three'.

"In doing so, I wish to say that five years is too long a period, and if a member of a Committee does not do his work satisfactorily, or if it is found that another member should be introduced, it is better that the time is limited to three years so that fresh blood may be introduced into the Committee. That is my object. I hope the hon. the Minister will accept the alteration of the figure."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"I also suggest that the term of office of a member of a Committee should be limited to three years instead of five years as provided for in clause 23. While I brought a similar motion for reducing the period of a Commissioner from five years to three years, two of the main objections of the hon. the Minister in charge of the Bill were that he was a salaried officer and that he was also to be appointed by the Government and that therefore it would be of some difficulty if the period should be limited to three years. But I may point out that in this case these difficulties do not occur at all. We resolved yesterday that all the members should be elected and no pay had been prescribed for the members. Therefore, the two main objections which were urged by the hon. the Minister in charge of the Bill for reducing the period of a Commissioner do not exist in the case of a member of Committee."

"Then, if you consider the qualifications which have been prescribed for membership in the Committee you will find that they are practically the same as those provided for the various councils which have elective franchise such as the municipal councils, etc. And we know as a matter of fact the period of membership for all these offices is three years. I do not know why in the case of these elections which are conducted practically on the same principle, where the membership is practically honorary and is also subject to the same restrictions, the period should be so long as five years. In view of the fact that the complaint is that these Committee members have been exercising their functions for unduly long periods, it is necessary that the period should be reduced to three years."

The hon. the RAJA OF PANAGAL :—"Mr. President, my reasons for the rejection of the previous amendment apply to rejecting this amendment with greater force. In the case of the previous amendment the election

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Clause 23—cont.

referred to is an individual election; here it is the election of the whole body. The expenditure involved will necessarily be much greater. Therefore, I cannot accept this amendment."

The motion was by leave withdrawn.

(Amendment No. 128.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I beg to move—

For the words 'takes effect' substitute the words 'is published in the prescribed manner'.

"The words 'takes effect' are very vague. I do not know when the appointment or the election will take effect. Therefore, I submit that . . ."

The hon. the RAJA OF PANAGAL :—"May I say, Sir, that I have no objection to accept the amendment?"

The motion was put and carried.

Clause 23 as amended was put and carried, and added to the Bill

Clause 24.

Sub-clause (3).

(Amendment No. 129.)

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I formally move the amendment standing against my name, viz.—

After the word 'Vice-President' insert the words 'if any'.

"I do not make any speech."

The hon. the RAJA OF PANAGAL :—"I formally oppose it."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I formally withdraw it."

The motion was by leave withdrawn.

Clause 24 was put and carried and added to the Bill.

Clause 25.

Clause 25 was put, passed and added to the Bill.

Clause 26.

Sub-clause (3).

(Amendment No. 130.)

Mr. R. SRINIVASA AYYANGAR :—"Mr. President, my amendment is—

To substitute the word 'Court' for the word 'Board'.

"Clause 26 deals with cases of elections in the first instance and provides if no member is elected at an election held under sub-section (1) a fresh election shall be held.

"It goes on further to provide that—

if no member is elected at such fresh election, the Board may appoint a person to fill the vacancy.

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Clause 26—cont.

"Such being the case, for the word '*Board*' I should like to substitute the word '*Court*' which will ordinarily be a District Court or, as it has been amended, courts of other jurisdictions which the Local Government, by notification, might have empowered.

"The reason why I should like to have this power of nomination vested in a court instead of the Board is this. There may be a number of committees in respect of temples or classes of temples to be constituted by virtue of the operation of clause 16 of the Bill. There may be ever so many committees and instead of vesting this power in the Board which will be located at Madras and whose jurisdiction will extend throughout the province, it is much better that this power is transferred to the court which will be a local authority having jurisdiction over the local area and which, as such, can reasonably be expected to have intimate knowledge of the local needs and surroundings. Suppose, for example, a vacancy in the district committee takes place in South Kanara. Under ordinary circumstances, it will be more than human to expect of a central authority functioning in Madras to get hold of a proper person, to apply its mind to the various facts and circumstances and proceed to select a proper person. In the present Act XX of 1863, there is a provision which vests this power not on any statutory body but on the court, and the observations made by the Privy Council in one of the leading cases, reported in XI, Madras, viz., *Minakshi v. Subrahmanyam Ayyar*, are exactly apposite. I would like to read it for the benefit of the Members—

The officer who constitutes the civil court is sure to be one of weight and authority and with the best means of knowing the movements of local opinion and feeling and one can hardly imagine a case in which it would be more desirable that the discretion should be exercised by a person acquainted with the district and with all the surroundings.

"Their Lordships in that case insisted upon the necessity and the desirability of the appointing officer possessing an intimate knowledge of the district and of the surroundings. The advantages postulated by their Lordships in the Privy Council case will not be possessed by this central authority whose jurisdiction is almost of an unlimited character and, in the very nature of things, it is much better if the local committees are expected to function properly, to transfer or otherwise vest, this power in the court. Those observations, I submit, still hold good."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Sir, in addition to the fact that the courts will be in a better position to select a suitable person for the committee, there is a point which Members of this House might consider by way of accepting the amendment that is before them. That is, even as a question of principle, I consider that we should give the power of appointment to the court. Because, these committees are, according to the Bill, to exercise certain judicial powers and it is better that the power of appointing members to the committee is not vested in the Board to which appeals lie from the decisions of the Committee, but in an independent body, namely, the court of the particular district or the particular place in which these committees might function."

The hon. the RAJA OF PANAGAL:—"I am unable to accept the substitution asked for. My learned friend has referred to one of the Privy 1-30 p.m. Council decisions. No doubt the decision is an erudite decision,

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Clause 26—cont.

but from the point of view of pure common-sense I cannot understand why the Board should not be entrusted with powers to deal with election cases and why we should in these cases have resort to a court of law. One of the objects of this Bill is to minimize litigation and resorts to courts of law. Again, experience has shown, and I believe hon. Members who have anything to do with the management of the local boards also know, that there have been repeated complaints regarding trials of election cases by civil courts. Under these circumstances, I do not think it is desirable to accept the amendment."

Mr. R. SRINIVASA AYYANGAR :—"I am rather surprised at the attitude taken up by the Minister in charge of the Bill. He has told us that he has heard a number of complaints to the effect that the local bodies are very anxious that election courts should be abolished. I demur to that view, and I am of opinion that in the interests of proper administration these courts should continue to exercise their power of inquiring into election cases."

"Then the hon. the Minister has referred to the question of common sense. 'Common sense' is a very deceptive term. What may appear to be common sense to one may be uncommon sense to another. There is no fixed relationship between common sense on the one side and propriety on the other. The hon. the Minister has stated that Boards have been particularly constituted for the purpose of inquiring into all cases bearing on all legal questions or otherwise and there is absolutely no reason why they should not be entrusted with that power. I may answer this by saying that the Board is now on its trial ; it has to pass through the experiment satisfactorily. The Board, as I have submitted, will not have the advantage of possessing the local knowledge which is indispensable, in deciding cases that come before them. In the absence of that possession of knowledge they will not be competent to decide them satisfactorily, and there is the danger of the Act being used improperly. Therefore, before pressing my motion to a division, I may say that in matters affecting the fundamental interests of the parties concerned, it is the civil court that must have the jurisdiction."

The motion was put to vote and lost.

At this stage 1-36 p.m. the House adjourned for lunch.

The House re-assembled after lunch at 2-30 p.m.

(Amendment No. 131.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I beg to move—

For the words 'the Board' substitute the words 'the Local Government'.

"The reason why I suggest this amendment is this : if a member of a committee is not elected twice, then there must be something radically wrong with that constituency. It may perhaps be due to some acts of the Board against the wishes of that constituency. This is possible because the Board is given the power of superintendence over all religious endowments and it will be found in clause 31 :

Subject to the provisions of section 14, a committee shall be entitled to exercise general superintendence over the temples for which it is constituted."

The hon. the RAJA OF PANAGAL :—"I accept the amendment."

The amendment was put to vote and carried.

Clause 26 as amended was put and carried and added to the Bill.

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Clause 27.

Clause 27 was put and carried and added to the Bill.

Clause 28.

Clause 28 was put and carried and added to the Bill.

Clause 29.

Sub-clause (2).

(Amendment No. 132.)

Rai Bahadur T. M. NARASIMHACHARLU :—“Sir, I move—

Insert the word ‘may’ between the words ‘appoint and’ and ‘transfer’.”

The hon. the RAJA OF PANAGAL :—“This is an amendment similar to amendment No. 155 on the agenda. The question of amending the sub-clause in the manner suggested by the hon. Member will be considered in the final re-drafting of the Bill. I hope with this assurance the hon. Member will withdraw his amendment.”

The amendment was by leave withdrawn.

(Amendment No. 133.)

Mr. R. SRINIVASA AYYANGAR :—“Sir, I beg to move—

Add at the end the following :—

‘An appeal shall lie to the Committee from the President’s order of suspension, removal or dismissal provided it is filed within one month from the date of the said order and the President shall carry out the order passed on appeal by the Committee.’

“I hope the hon. the Minister in charge will see his way to accept this motion. I am of opinion that, instead of relegating a provision of this nature to the rules, it is much better to put it as part of the Bill itself.”

The hon. the RAJA OF PANAGAL :—“The by-laws made by the Board will be part of the Bill.”

Mr. R. SRINIVASA AYYANGAR :—“I should like to know whether it is possible, when making the by-laws, to make such a provision. The provision

Subject to such control as the Board may impose, the President of the Committee, etc., . . . is couched in very vague terms and we do not know what the Government are going to do. As this provision is intended to confer a right of appeal, I think it is much better if it is found in the body of the Bill. In these circumstances, I cannot understand why there should be such opposition.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“I wish to point out that the suggestion made by the hon. the Minister in charge would have been correct if clause 15 gave power to the Board to make by-laws specifically referring to appeals from the decisions of the President of the Committee or from any other Committees. Clause 15 (1) deals with various other matters, but it does not specifically provide for appeals being preferred against the orders of the President to any other authority. Therefore, if the hon. the Minister in charge is prepared to accept the proposition that it is not

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Clause 29—cont.

desirable for the President to remain unchallenged or unappealed, it is very necessary to find some provision for it in the Bill itself. In the absence of such a provision, my hon. friend, the Minister in charge, must accept the amendment, or when re-drafting the Bill, he must make provision in clause 15 (1) providing for appeals from the action of the President. Without a specific provision, I think we shall have to experience much difficulty in the working of the Act."

The hon. the RAJA OF PANAGAL :—"Sir, I shall consider the latter part of the request while re-drafting the clauses. However, I still adhere to my opinion that clause 15 provides for general control, and that any rules that will be made in accordance with the provisions of this Bill will form part of the legislation to guide the administration of religious endowments."

Mr. R. SRINIVASA AYYANGAR :—"I press my motion."

The motion was put to vote and lost.

Clause 29 was put and carried and added to the Bill.

Clause 30.

Clause 30 was put and carried and added to the Bill.

Clause 31.

(Amendment No. 134.)

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, I beg to move—

Omit this clause.

Hon. Members will remember that the right of general superintendence over all religious endowments is vested in the Board under clause 14. We had a discussion on the inadvisability of conferring on the Board the right of general superintendence over all religious endowments. Now, we have the power of general superintendence vested in the Committee also. So, we have two bodies having the right of general superintendence: one the Board, and the other the Committee. The reasons that I have urged already for not granting the right of general superintendence to the Board apply also to the Committees.

"Further, we are now creating two bodies for general superintendence; first, the Board, and, secondly, local committees which are to superintend subject to the control of the Board. It seems to me, Sir, that between these two bodies the lot of the religious endowments and temples would really be a most difficult one. As I explained yesterday, I have absolutely no objection if certain specific powers are given to these Committees. But to place religious institutions under large powers of general superintendence of the Committees as well as of another superior body, the Board is certainly, Sir, carrying control to a most undesirable length. As my hon. friend, Mr. Govindaraghava Ayyar, puts it, it is certainly placing them between two fires. The Committees may issue one set of orders and the Board may issue another. Therefore, Sir, I think, that this general power of superintendence vested in these two bodies is certainly unnecessary. The Board's general superintendence has already

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Clause 31—cont.

been agreed to. It seems to me that to vest the very same powers on the temple committees also is quite unnecessary. I am quite aware that this provision found a place in the Act of 1863. That is entirely a different matter. If we are now creating a control by the Board, it will be certainly showing very little consideration to the unfortunate trustees who will have to be supervised by these two bodies. On these two broad and general grounds, I object to clause 31."

The hon. the RAJA OF PANAGAL :—" Mr. President, the case of the general superintendence by the Board is different from that of the Committee. The general superintendence by the Board referred to in clause 15 is in the case of *maths* and excepted temples. The trustees of these institutions have a status higher than that of the trustees of the other temples. Besides, Sir, in the case of the Committees they are elected bodies, and according to democratic conceptions elected bodies can exercise greater powers. Sir, I do not follow my hon. friend's argument so far as it relates to the concurrent superintendence of the two bodies. There are many cases where powers of supervision are given to more than one body. I do not think such concurrent jurisdiction would involve these temples in difficulties."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—" I think the power that is given in sub-clause 31 is a very necessary power. Having been a member of a Committee for a long time, I could realize the difficulty in the existing Act with reference to the control and the superintendence which are defined there vaguely. My only objection is that the same vagueness appears again in clause 31. It is necessary for any Committee to exercise its jurisdiction over trustees properly, that it must have plenary powers of control and superintendence over the trustees. I think the clause may remain with the powers defined, if possible, more clearly."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I wish to say one word, Sir. My hon. friend, Sir T. Desikachari, who is a member of a Committee, thinks that we should retain this power over the trustees. I wish that he is also a member of the new Board which has to be constituted under this Bill."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—" Mr. President, Sir, I am no longer a member of the Committee, and I never hope to be a member of any Board. I attempted to give the benefit of my experience, and I merely wanted to point out that the existing Committees were impotent and that if the Committees under the new Bill had some sort of power, it would be most welcome."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I was indulging in a piece of humour with my hon. friend when I said that he should also be a member of the Board."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" He is not going to get it."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" We need not discuss that. I certainly would not object to clause 31 being revised as my

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Clause 31—cont.

hon. friend wishes, if the same general superintendence were vested in no other body. The whole trouble is due to two authorities doing the same work."

The hon. the RAJA OF PANAGAL :—" May I rise to a point of order, Sir ? My hon. friend has had his opportunity to reply."

The hon. the DEPUTY PRESIDENT :—" He has not finished his speech. Mr. Desika Achariyar only interrupted him."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Thank you very much, Sir, for the ruling. With the creation of these two bodies with powers of general superintendence, the trustees are likely to be put in conflict with each other."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" May I draw the attention of the hon. Member to the wording

subject to the provision under section 14 ? "

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I am aware of these words. The Board and the Committees will come to blows in spite of them. Of course, my friend thinks that this is necessary. But I do not think so."

The motion was put and lost.

[(Amendment No. 135.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I move—

Omit the words 'subject to the provisions of section 14.'

One servant, Sir, cannot serve two masters, nor can two swords be in one sheath. If this clause is retained, it comes to this : The Committee will issue a particular order in exercise of their powers of general superintendence at a time when there is no order of the Board. But the Board will afterwards come in and say, ' I do not care for the Committee's order. You had better do in this other way.' Supposing when the former order is being carried out the Board comes in and says, ' No, no ; stop work. My will is otherwise ', what will be the state of the administration ? There are bound to be conflicts like that, if the Committee's power of general superintendence is made subject to the order of the Board under clause 14. Another thing is that the Committee's power exists over ordinary temples. They must have more specific powers because they are immediately concerned with the temples. The Board is an authority constituted and situated in the cool sea breeze of Madras. They should have only general superintendence just as the Government has over all officers of the Government ; and the Committee must have special powers in the same way as the Collector has specific powers over his subordinates. What we actually have in the Bill cannot be called a clever piece of legislation. It has given large powers to the Board under clause 14, and clause 31 emphasizes those powers by saying :

Subject to the provisions of section 14.

" The Board therefore is given more powers than the Committee. I submit, Sir, it is bad legislation to give no power at all to the Committees and give all powers to the Board which is miles away from a temple situated in a

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Clause 31—cont.

corner of a taluk. If in addition to the order of the Committee there is to be the order of the Central Board, the administration will not at all work well. The best thing is to give the Committees special powers and the Board general powers of control. That would be proper legislation. Now the immediate authority is given nothing and its powers are left vague, as my hon. friend, Mr. Desikachariar, put it. He has got the widest experience possible not only in temples but outside temples also. As he said, the powers of the Committees are delightfully vague. You should give them specific powers instead of saying vaguely that they have all powers of superintendence subject to the provisions of clause 14. I therefore submit, Sir, that the words 'subject to the provisions of section 14' be omitted."

The hon. the RAJA OF PANAGAL:—"Mr. President, I am afraid that my hon. friend's remark that 'what we have in the Bill is not a clever piece of legislation' is not warranted. On the other hand, I am sorry to say that my hon. friend has not followed the rationale of the provisions of the sub-clause. In the first place, Sir, the powers given by clause 31 are more general than the powers given under clause 14. The powers given under clause 14 are restricted as amended by Mr. Govindaraghava Ayyar's amendment. The Board has powers only to the extent to which the Bill provides; whereas the residuary powers are also included in clause 31. Sir, the difficulty my friend seems to anticipate is not a real difficulty. In the second place he says that there will be a conflict. On the other hand, there is nothing in the provision which will give room for conflict. For these reasons I am unable to accept my hon. friend's amendment."

Rai Bahadur T. M. NARASIMHACHARLU:—"I have
3 p.m. exhausted my arguments, Sir."

The amendment was put and lost.

(Amendment No. 136.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Mr. President, Sir, I beg to move—

For the words 'section 14' substitute the words 'this Act'.

"Sir, the clause with the amendment will stand thus—

Subject to the provisions of *this Act*, a committee shall be entitled to exercise general superintendence over the temples for which it is constituted.

The reasons why I propose this amendment are very few and simple. It is, of course, a rule of interpretation that every section in a Code must be construed consistently with every other section in it; so that, if the whole of the expression

subject to the provisions of section 14

goes, there would be no hardship worked, for the provisions of clause 31 would still be interpreted in such a way as not to conflict with the provisions of clause 14. But if you particularize a certain clause and say that the general superintendence shall vest subject to its provisions, there seems to be an implication in that very statement that the general superintendence need not be necessarily subject to the provisions of the other clauses in the Bill. Therefore, if the Government chooses to retain this expression

subject to the provision of

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Clause 31—cont.

it must necessarily be ' subject to the provisions of this Act ' and not subject to the provisions of section 14

or any other particular clause. I therefore propose this amendment."

The hon. the RAJA OF PANAGAL :—" If I may say so, Sir, it is indeed clever advocacy."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" But not, on that account, an incorrect one."

The hon. the RAJA OF PANAGAL :—" If I accept my hon. friend's amendment, I am afraid I will be landed in difficulties. He wants me to believe that if I accept the proviso ' subject to the provisions of the Act ', there will be no conflict. As a matter of fact, if I were to do so, it would amount to the Committees having no residual powers over the temples. This provision is intended to give the Committees the residual powers which have not been given to the Board because of the special status of the heads of the excepted temples and *maths*. My hon. friend, Sir Desika Achariyar, has explained to the House how it is that a provision such as this is absolutely necessary and warranted by the experience of those who have been in touch with the working of the temples. For these reasons, I feel constrained to say that I have to reject the amendment."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, the hon. the Minister for Local Self-Government has altogether misapprehended the position. The object of my amendment is not at all to restrict the residual powers. Both of us agree that it is only the residual powers that can be exercised by the Committees. Now there are certain specific provisions governing the control exercised by the Committees over institutions under their jurisdiction. All that I say is that under this clause, it ought not to be competent to a Committee to override any of the other provisions by taking advantage of the fact that the Committee is to work subject only to clause 14 and not to the other clauses of the Bill."

The hon. the RAJA OF PANAGAL :—" Sir, I want to know definitely what my hon. friend means. So, with your permission, Sir, I should like to put him this question, whether it is his idea that the Committees should have all residual powers or powers which are conceded in favour of the Boards. If his amendment allows the Committees to have all residual powers, whether they are referred to in the provisions of the Act or not, I shall be in a position to accept the amendment. So I very much like to be enlightened on this point."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, my amendment means this. Ordinary powers are given to other bodies created by this Bill. If those powers will in any way affect the use of the powers by the Committee, then the Committee might use its powers only subject to those other powers. In the very instance to which my hon. friend referred, namely, with reference to the powers given to the Board, it is obvious that when powers given to the Board and the powers given to the Committee, itself a subordinate institution, come into conflict, it is the authority of the Board that should prevail. When I say ' subject to the provisions of this Act '—clause 14 also is a provision of this Act—the powers of the Committee will be subject to the provisions of clause 14 also, so that all my hon. friend

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Clause 31—cont.

requires is retained. I also say it must be subject to the provisions of the other clauses in the Bill, because the mention of one clause as the provision subject to which the control of the Committee has to be exercised might, by some courts, be taken to mean that when the powers of the Committee under clause 31 come into conflict with any other clause of the Code, it will be perfectly competent to them to say that because that particular clause is not mentioned and only clause 14 is mentioned, the Committee can exercise some power which is inconsistent with the other provisions of the Bill. I do not think that that is the intention of those who are responsible for this Bill, so much care, as stated by the hon. the Minister, having been taken in drafting it. Therefore, I suggest that the expression

subject to the provisions of this Act
instead of

subject to the provisions of section 14

may be adopted. I think I have made myself as clear as possible."

The amendment was put and lost.

Clause 31 was put and passed and added to the Bill.

Clause 32.

(Amendment No. 137.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—"Sir, I beg to move—

(a) Insert the following as item (a) :—

'(a) the appointment of a paid Secretary to the Committee.'

(b) Re-letter the existing items.

Sir, the Committee is expected to do a lot of work and I think that without a paid Secretary, the Committee cannot do its work satisfactorily."

The hon. the RAJA OF PANAGAL :—"I have very great pleasure, Sir, in accepting the amendment of my hon. friend. But this provision has already been made under clause 29 (1). So it will be redundant here. When redrafting the Bill, we shall see that this provision is inserted either here or there, wherever it would be better."

The amendment was by leave withdrawn.

(Amendment No. 138.)

Mr. C. V. VENKATA RAMANA AYYANGAR :—"Sir, I beg to move—

(a) Insert the following as item (j) :—

'(j) the procedure to be adopted for circulating papers and arriving at decisions in emergent cases.'

(b) Re-letter the existing item (j).

I formally move this amendment and leave it to the other side to accept or reject it."

The hon. the RAJA OF PANAGAL :—"Sir, I am quite in sympathy with the spirit of my hon. friend's amendment. But there is some difficulty in accepting it as it is. It requires some change. The wording in clause 15 (1) (b) has to be adopted here also."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, clause 15 refers to the Board, consisting of paid gentlemen. I think the decisions of

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Clause 32—cont.

the Committee should be arrived at at a meeting of the Committee. I do not know why my hon. friend is anxious to provide for the circulation of papers."

The hon. the RAJA OF PANAGAL :—"Am I to take it that the hon. Member is opposing the amendment?"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"May I know why he is proposing his amendment?"

The hon. the RAJA OF PANAGAL :—"Sir, I have already replied my hon. friend, the mover, by saying that I have no objection to accept the spirit of the amendment though not the language. I therefore propose to move another amendment, a copy of which has been shown to him, and if he has no objection to it he may withdraw his amendment."

The amendment was by leave withdrawn.

(Amendment No. 139.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"With your leave, Sir, and the leave of the House, I beg to move an alternative amendment. The amendment that has been withdrawn now is somewhat more restricted in scope than the amendment I propose to move on behalf of the Government. The amendment of the hon. Member, Mr. Venkataramana Ayyangar, really confines itself to the circulation of papers and arriving at decisions in emergent cases, whereas what is proposed to be moved is somewhat wider. This wider language is used in order to bring it into line with the language used in connexion with the Board of Commissioners in clause 15. I therefore move my amendment which runs as follows :—

Insert the following as item (j) :—

'(j) the manner in which their decision shall be ascertained otherwise than at meetings.'

The amendment was put and passed.

Clause 32 as amended was put and carried and added to the Bill.

Clause 33.

(Amendment No. 140.)

Rai Bahadur T. M. NARASIMHACHARLU :—"I beg to move—

3-15 p.m. *Omit the words 'or excepted temples.'*

"Sir, as amended the clause would read thus :

No committee constituted under the provisions of this chapter shall be entitled to exercise any jurisdiction over maths . . . or the trustees thereof.

What I mean by this is to place the excepted temples along with other temples under the jurisdiction of Committees. I submit that if the Tirupati or Conjeeveram or any other temple for which schemes have been prepared by the Privy Council can be brought on a line with ordinary temples and placed within the jurisdiction of Committees, I fail to see why owing to the mere fact that a particular temple is under a particular trustee who is a zamindar or other notable it should not be brought within the jurisdiction of the ordinary Committee. I want to avoid all invidious distinctions between one kind of temple and another whoever may be the trustee. We all serve

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Clause 33—cont.

God and when we serve God, all trustees are the same before God, and consequently we shall not make any distinction between one trustee and another. (A voice: what do you say to maths.) The Committee cannot have any power over maths. I accept that. But I do not accept the other phrase 'or excepted temples'. I wish to place all temples under the jurisdiction of the Committee."

The hon. the RAJA OF PANAGAL:—"Mr. President, I thank my hon. friend from Cuddapah for the dictum 'Forsake not God for the sake of man'. It seems to me, Sir, he is confusing issues. He says that because we have not imposed restrictions in the case of certain temples, we should not also impose restrictions in the case of others. I cannot for a moment follow his line of argument. Suppose for special reasons some consideration is shown to some temples, does it follow that the same consideration should be shown to others too? Is there any harm in imposing a greater restriction in the case of others? But that is as a mere argument. Coming to the point, I have closely followed his argument and there seems to be nothing new in it; it is a mere repetition of the old, old story. Mr. Narasimhacharlu may have his own views about zamindars, but I do not stand here to defend the zamindars."

Rai Bahadur T. M. NARASIMHACHARLU:—"I say nothing against the zamindars; I have the highest respect for them. But my respect for God is greater than my respect for them."

The hon. the RAJA OF PANAGAL:—"I am glad to be assured of that. It is not with a view to distinguish zamindars from other classes of people that this legislation has been introduced and this distinction has been drawn between one class of temples and another. The criterion for the distinction is not whether it is managed by a zamindar or another man, but whether it was originally endowed by an ancestor of the present trustee. So, in general words, that criterion has been introduced in the form in which the Bill has been framed. I cannot follow Mr. Narasimhacharlu's argument why he takes objection to the word 'excepted temples' being retained in the clause."

Rao Bahadur C. V. S. NARASIMHA RAJU:—"Mr. President, if I understand the framework of the Bill correctly, I think the principle on which the excepted temples are placed under the control of the Board of Commissioners and the non-excepted or committee temples under the control of committees is that at one time, between the years 1801 and 1842, the temples that are now placed under committee control were under the direct control of Government. On account of some agitation by the missionaries, State control gave way to popular control by means of elected committees. That is the main principle upon which the whole framework is based, and my hon. friend, Mr. Narasimhacharlu, should not complain of any favouritism shown to zamindars or any class or individual. But we must examine and see whether the principle is correct, and I do not think that any Member will have any objection to it."

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, with reference to the hon. the Minister's remarks that we show some concession to excepted temples, I do not object to it. I do not object to any concession being shown to any one."

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Clause 33—cont.

The hon. the RAJA OF PANAGAL :—“The hon. Member is mis-stating a portion of my speech. I did not ask why he should take objection to concession shown to certain temples. What I asked was why he should take objection to greater restriction being placed upon other temples—the very reverse of the case.”

Rai Bahadur T. M. NARASIMHACHARLU :—“All I say is let all temples be placed on the same footing. As regards the arguments of our Raju, my namesake, he says that because Government were once controlling some of these temples we place them under the committees, and because the Government were not controlling certain other temples we call them excepted temples. I will show to him the injustice done to one other kind of temples, that is, temples like those at Tirupati, Conjeeveram and Tiruvallur where the presiding deities are all-India deities, not small deities like those in the temples of the zamindars. These temples were never subjected to committees, but now they are brought under the committees. Therefore, to be uniformly just I want all temples to be placed under the committees.”

The motion was put and lost.

Clause 33 was put and passed and added to the Bill.

Clause 34.

New sub-clause after sub-clause (4).

(Amendment No. 141.)

3-30 p.m.

Mr. M. SURYANARAYANA :—“Sir, I beg to move—

Add the following as sub-clause (5) :—

- ‘(5) Every such register shall be open for inspection by any voter at the office of the Board or committee at any time during office hours free of cost.’

“I take this provision from the District Municipalities Act which says that the property tax register shall be open for inspection to any voter at the Municipal office. This all-important register which concerns the temples and other persons interested in their administration should be open for inspection. If the hon. the Minister objects to the word ‘voter’, I shall have no objection to substitute the words ‘any person interested’ or any such words.”

The hon. the RAJA OF PANAGAL :—“There is a shade of difference between the voter to a temple trust and a voter to a local body. The latter is generally a taxpayer, while the former is not. The voter in a temple election may be a worshipper; he may have devotion to the deity in the temple, but he is not a taxpayer. Another question which the hon. mover has raised is: If it is so ‘when should the register be kept in the office?’ If any one is really anxious to have a register he can purchase a copy of it. The test of his sincerity in obtaining information will lie in the fact of his payment. On the other hand, if for the sake of this or that voter the Board or the committee have to be sitting all the day, it means so much of money of the trust is wasted. Therefore, I cannot accept the amendment.”

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Clause 34—cont.

Mr. M. SURYANARAYANA :—"There is no provision in the Bill for the purchase of the register."

The hon. the RAJA OF PANAGAL :—"I have only to refer my hon. friend to clause 35 (4) of the Bill."

Mr. M. SURYANARAYANA :—"Yes, Sir. I find the provision. It is open to any voter to take a copy of the property tax register from the Municipal office if he is really very keen about knowing whether a particular house is properly taxed. Even so, in the case of these religious institutions, you cannot test the zeal of a person by the fact that he is willing to pay for a particular thing. Besides, the register that we talk of here must necessarily be such a voluminous register that it will be probably impossible for any person to take a copy of it. Any person interested must necessarily be entitled to refer to it in the office of the Board or of the committee and take such notes as he thinks proper. With regard to the question that the voter pays tax, in the case of religious institutions also the person makes offerings to the gods and they are as much payments as the payment of taxes by the voters of a municipal corporation."

The hon. the RAJA OF PANAGAL :—"I have already drawn the attention of my hon. friend to the difference between the case of a voter to a municipal corporation and that of a voter for the election of a temple trustee or a committee member."

Mr. M. SURYANARAYANA :—"If necessary, the hon. the Minister may insert the words 'any person interested' instead of the word 'voter' in the amendment."

The hon. the RAJA OF PANAGAL :—"We have defined a person interested to mean any person who will get some *prasadams* in a temple. Instead of his paying he will be receiving something from the temple. I cannot understand why the temple should be maintaining a staff to oblige a man of that sort."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—"Sir, the existing temple committees and their successors, the committees under the new Act, do not have much of an establishment. I think the life of a committee member or the manager of the committee's office will not be worth living at all if he is asked to give to any person going in the street a copy made in the office of the registers. I think it is not at all a practical proposal, nor is it likely to conduce to the benefit of the administration of religious endowments."

The amendment was put and lost.

Clause 34 was put and carried and added to the Bill.

Clause 35.

Sub-clause (1)

(Amendment No. 142.)

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I formally move—

Add the following as a proviso at the end :—

'Provided, however, that the trustee shall not be bound to file such a statement if he does not want any alterations, omissions or additions to be made in the register.'

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Clause 35—cont.

The hon. the RAJA OF PANAGAL :—"I formally oppose it, Sir."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Then, I formally withdraw it."

Sub-clause (2).

(Amendment No. 143.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I move to—

Omit the words 'if any'.

I do not understand the necessity for these words. There is the Board and there will be the committee appointed for a temple or temples or classes of temples. Why should the existence of the committee be doubted and why should we say the Board and the committee, *if any*? The words seem to be thoroughly unnecessary."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Mr. President, Sir, these words seem to be necessary for the reason that we have not accepted the hon. Mr. Narasimhacharlu's suggestion as regards bringing excepted temples also under committees. According to the clauses that have been accepted there are excepted temples and temples which are not excepted. The latter class will come under committees and the former will not. In the case of temples which do come under the jurisdiction of committees, the committees also may make inquiries. In the case of excepted temples, which do not come under committees, it is unnecessary that any committee should make any inquiry. Only the Board need do it. I hope my hon. friend will now see the necessity for the words."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAK :—"Am I to understand that there are two bodies which will make inquiries, the Board and the committee in the case of committee temples?"

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Yes, Sir, that is the scheme."

Rai Bahadur T. M. NARASIMHACHARLU :—"I wish only to say that the purpose of the Government is not served by the retention of the words."

The amendment was put and lost.

New sub-clause after sub-clause (4).

(Amendment No. 144.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I move to—

Add the following as sub-clause (5) :—

'(5) The trustee in the case of maths includes his duly constituted agent in this and the preceding sections.'

"In the last words, I include clauses 34 and 35. I wish to make the point clear by making the duly constituted agent of the trustee as the person to do things enjoined by these two clauses. My point is this. It is generally the practice of the people, Sir, not to address personally the *matadhipatis*. They are considered too *sober* for any man to think of addressing them personally. They are generally honoured by being addressed through the constituted agents. There are agents in the math who are called *Sri karyams* and who do several kinds of businesses. Whenever anything is to

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Clause 35—cont.

be addressed to the head of a math, I say let it not be addressed necessarily to the name of the head, but let it be addressed through the constituted agent just to preserve the integrity and dignity of the head of the math. It is only with this object that I move my amendment. Please show some respect to these people. The amendment does not alter the substance of the clause. I only pray that you may show that respect to the head of the math which the people are showing all along."

Mr. R. SRINIVASA AYYANGAR :—"I should like to give my support to this amendment. If the Government have no objection I think it is much better that we have the words 'authorised by a general power of attorney' in place of the words 'duly constituted' which expression we are not quite familiar with."

Mr. C. MADHAVAN NAYAR :—"Mr. President, from the concluding words of the hon. mover it is fairly clear that he is not very particular in asking the House to accept the amendment. There is a good deal of difficulty which will be opened up if the House accepts this. In the first place, the trustee is one who is entrusted with onerous functions of a very serious nature. It is even one of the most contested points that arise in courts of law whether he can delegate his functions to anybody at all. In these circumstances, apart from other considerations, it is not proper that the House should be called upon to accept the amendment. Another additional reason which I may suggest to this. The concluding portion of the amendment, the words : 'and the preceding sections' open a vista of difficulties which it will be difficult to overcome. Therefore, I submit, that the wise course for the House to take is to reject the amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—"Well, Sir, that reply has made the position of the *matadhipati* more desperate than ever. The hon. the Advocate-General says that it is very undesirable, where the trustees have such onerous duties to perform, to allow them to delegate their powers to others. It is that very fear that actuated me to frame this amendment. You will see in clause 34 that

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for every math and temple a register shall be maintained by the Board showing the names of past and present trustees Particulars of all endowments particulars of the scheme of administration the names of all offices the jewels, gold, silver, precious stones such other particulars

and that

the register shall be prepared, verified and signed by the trustee of the math or temple and so on and so forth. Well, Sir, if a trustee who is the head of a math is engaged in preparing this register and in signing and verifying everything, and if there is anything wrong in it, he can be prosecuted for giving false evidence or for making a false statement. What I submit is this: in that way he will have to spend all his time in secular matters, and no time will be left to him to think of God or of his disciples. Then, again, look at clause 35, and there you find :

The trustee shall annually scrutinise the entries in the register and shall submit to the Board for its approval a verified statement showing the alterations, omissions or additions which should be made in the register.

[Mr. T. M. Narasimhacharlu]

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Clause 35—cont.

" Well, Sir, the trustee has to sit and put on his spectacles (laughter)—as generally old people are appointed as heads of maths to verify the statements ; only, you have failed to add that the meaning of the word ' verify ' is within the meaning of the Criminal Procedure Code. Then, Sir,

The Board may by order direct the alterations, omissions or additions which should be made in the register.

So you see, Sir, that an order is to be given to the head of the *math* by these Boards. All I can say is, why not you respect the sentiment of the people towards these heads of *maths*. I am not asking that these duties should be allowed to be delegated to any one else. The Government is under a misapprehension. I say that anything that is addressed to the trustee may be addressed to his so-called private secretary. We do not address His Excellency personally, but we only address him through the secretaries that are in existence. Similarly, we have so much respect for our *matadhipatis* that we expect others to show some respect to them owing to the exalted position they occupy. I do not at all say that the powers and duties shall be delegated to the agent. He will be only a duly constituted agent to receive everything and to communicate the same to the head of the *math* and to do things under his direction. That is why I very much like to press this amendment."

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Sir, I rise to say a few words in support of this amendment. I know of the case of a *matadhipati* who holds an exemption from attending courts, and he was forced to attend a particular court, because the judge of that court refused to recognize the order of exemption he possessed. He had to run away 300 miles to avoid attendance at the court to give evidence : a commission had to be issued to examine him. Hence, what I wish to say is that such a provision as this is essential, because if the *matadhipati* is called upon to be present at any enquiry it is better that he is allowed sometimes to be represented by his agent."

The hon. the RAJA OF PANAGAL :—" It is not the intention of the Government to show any disrespect or disregard to the *matadhipatis*. Far from it, the Government have the greatest respect for all those *matadhipatis*. The real difficulty is one of more or less of a technical nature. There will be no objection to ordinary administrative matters being transacted by the duly authorized agents. There may be cases where they have themselves to make statements. In such cases the difficulty comes in. All the same, Sir, the Government have taken power to exempt any of these heads of maths or trustees of excepted temples from any or all of the provisions of this Bill. So, if in experience any such difficulty is felt, it will be considered."

The amendment was put to the House and lost.

Clause 35 was then put, passed and added to the Bill.

Clause 36.

Clause 36 was put, passed and added to the Bill.

Clause 37.

Clause 37 was put, passed and added to the Bill.

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Clause 38.

Sub-clause (1).

(Amendment No. 145.)

Mr. C. V. VENKATARAMANA AYYANGAR :—“Sir, I move—

For the words ‘office, or when’ substitute the words ‘office and.’

The purpose of this amendment is this: As it is, the first portion of sub-clause (1) of this clause says, if

there is a dispute respecting the right of succession to such office, or when such vacancy cannot be filled up immediately.

“I think, Sir, these two conditions when taken separately will be very dangerous; because, the mere fact that there is some dispute respecting the right of succession which should be enough for the Board or the committee to fill up the vacancy themselves will be a very dangerous power. What I say is that there are two different conditions here under which, even if they exist separately or alone, the appointment ought not to be made by the Board or committee when there is a vacancy. Supposing the first stands alone, and there is only a dispute respecting the right of succession by somebody objecting to the appointment of a successor who is chosen and who is to take charge, saying that he is the claimant or somebody else is the proper man simply because he does not like that successor, the Board will have to interfere. If a claim is found to be absurd and the Board sees that it is absurd, then it need not wait. Therefore, these two conditions, namely, a dispute respecting the right of succession and the vacancy not being filled up immediately, should be coupled together. Otherwise, a frivolous objection may be raised as to the succession, and then this sub-clause will give power to the Board or the committee to appoint somebody temporarily to the office. Whereas, if the two conditions are taken together before the Board or committee appoints anybody, there will be some time taken to see if there are any reasonable objections with regard to the succession and if the vacancy is not otherwise filled up. Especially in the case of the hereditary trusteeship which involves a good deal of responsible work, such a dispute may arise when one becomes a trustee by succession, and any one may rise up and say ‘he is not the fit man, there is some one else,’ or ‘I am the fit man to succeed.’ Therefore, to guard against the possibility of frivolous objections being raised to heirship or to the right of succession, I would suggest some such limitation as is contained in my amendment.”

The hon. the RAJA OF PANAGAL :—“Mr. President, the contingencies contemplated in the first two paragraphs of sub-clause (1) of clause 38 are two independent contingencies and not one contingency dependent on another. Hence, Sir, the disjunctive conjunction is used and not the conjunctive conjunction. If I adopt the amendment of my hon. friend, the object of the clause will be frustrated. Instead of two contingencies being separate, one will have to depend on the other, and only when there is the latter contingency arising, effect can be given to this provision. Under these circumstances, it will not be possible to accept this amendment.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“So far as the language is concerned, I understand it quite correctly. The word ‘or’ is there, and therefore I want the word ‘and’ in its place. The two conditions taken together will be sufficient for the Board to take steps. Only when there is a

[Mr. C. V. Venkataramana Ayyangar] [29th March 1923
Clause 38—cont.

dispute regarding succession, there are possibilities of the vacancy not being filled up immediately. Again, as I said, as a safeguard I have put the word 'and' instead of 'or.' For, as it is, any person in the street raising an objection to the qualifications of a successor may be able to put off his coming into office, for a long time. Therefore, it is to take away the possibility of such a contingency that I want the word 'and' there in place of 'or.' I have therefore to press this amendment."

The amendment was put and lost.

(Amendment No. 146.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I beg to move—

Omit the words 'the Board in the case of maths and excepted temples and.'

"This clause, Sir, applies to all hereditary trustees of the *maths* and other kinds of religious endowments. As I have already submitted, this will land us in a great deal of difficulties, to borrow the language of the hon. the Minister. When, as is contemplated in this clause a vacancy occurs, the head of a *math* must be a *sanyasi*, and power is given here to the Board in the case of the maths and excepted temples and to the committees in the case of other temples to appoint a fit person to discharge the functions of the trustee of such endowment. I ask, Sir, is it the idea of this Government or of this Bill to make a *sanyasi*, instal him as head of a *math* and constitute him a trustee. Well, Sir, if the Government has contemplated such a power,

I think it is a very unwise step. In fact, it is impracticable.

4 p. m. What I would submit is that this is a very knotty question and the Government is really taking upon itself a power which it does not possess, and has not possessed at any time, namely that of appointing spiritual heads of the *maths*, calling them trustees and then asking them to account for the administration. Even though it may be a temporary vacancy, as mentioned in this clause, they have no power to do these things, and I submit, it will be usurping a power which the Government never possessed—the power of appointing a trustee even temporarily in the case of *maths*. I hope that the zamindars and those who have control over the excepted temples will join with me, because I plead not only for the *maths* but also for the excepted temples. In this case it will not be possible for the Government to appoint a temporary zamindar who will be in management till the disputes between the various contending parties are settled finally in the Privy Council. Therefore, I submit that this is a provision whose consequences have not been properly foreseen by the Government and I press my motion for the consideration of the House."

Sri Meka V. APPARAO Bahadur :—"Am I to understand, Sir, that under this clause a temporary trustee is to be appointed as a receiver is appointed in the courts?"

The hon. the RAJA OF PANAGAL :—"Yes, Sir."

Sri Meka V. APPARAO Bahadur :—"Then I have no objection, Sir, to the clause."

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Clause 38—cont.

Mr. R. SRINIVASA AYYANGAR :—“Sir, with your permission I should like to say just a word about this motion. The power taken by this clause appears to be very dangerous and would be beset with serious difficulties and complications. If an interim trustee is to be appointed to discharge the secular duties appertaining to a *math*, I can understand it because his functions will be akin to those of a receiver or manager appointed for the time being to be in charge of the secular side of the institution. But as the clause stands, to confer on the Board the power of getting hold of a *sanyasi* in the case of Vaishnava *maths*, getting hold of a bachelor in the case of the Sankaracharya *maths*, or getting hold of a virgin Smartha widow in the case of the Balayya *math* in Tiruvallur, to confer on the Board this extraordinary responsibility for the purpose of safeguarding the interests of these institutions, is, I venture to submit, highly objectionable and improper. A vacancy may occur, or a dispute may arise in the wake of the death of trustee, but so far as the Ahobilam *math* is concerned, we have certain established usages to go upon ; either the successor is nominated by the predecessor and *kashayam* is given to him, and in the event of His Holiness dying all of a sudden, without nominating a successor, right is given to the disciples of the *math* to meet in a particular place, and it is within the competence and discretion of a large number of disciples to nominate his successor. Thirty years ago, when such a contingency arose, as a matter of fact, most of the disciples met in a village near Villupuram and appointed and installed the successor. But now that power is sought to be taken away, and the Board wants or is anxious to retain in its hands the power of appointing a *matadhipati* for the time being and so far as this clause is concerned, he will be a *matadhipati* for ever for when we turn to another portion of the section, it says that he shall discharge the functions of the trustee of such endowment until another trustee succeeds to the office or the disability of the trustee ceases to exist, as the case may be. So far as the Government's position is concerned, he will be a permanent fixture, a tool in the hands of these people, and I am not quite sure whether it will be desirable on the part of the Board to claim this power or to arrogate to itself this power. By doing so, it will have the effect of empowering the Board to force a particular individual as *matadhipati* on these *maths*. ”

The hon. the RAJA OF PANAGAL :—“Sir, I am afraid that either my hon. friends are confused or are trying to confuse us.”

Mr. R. SRINIVASA AYYANGAR :—“There is absolutely no confusion, Sir, so far as we are concerned.”

The hon. the RAJA OF PANAGAL :—“What is contemplated under this clause is not a trustee of the spiritual administration, but it is a trustee of the endowments, that is the trusteeship of the properties belonging to the *math* or excepted temple. My hon. friend, the Zamindar of Vuyyur (Sri M. V. Appa Rao Bahadur), correctly estimated the value of the arguments and he was just in time to defend the Government against an attack which is gratuitous. As a matter of fact there cannot be any objection to the sub-clause as it is, because it does not contemplate any interference with the spiritual administration. I ask my hon. friend a question. Suppose, there is a disputed succession. There are two *matadhipatis* claiming the management of a *math*. Certainly it follows that one of them is putting

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Clause 38—cont.

forward a wrongful claim. Now, it may happen that the management is taken over by the wrongful *matadhipati*. Then, what about the sacrilege which my friends have in the course of their arguments made so much of? Again, Sir, there may be cases which go to courts when two *matadhipatis* dispute their claims before a court of law, and the court has the power to appoint a receiver. How would they avoid such a contingency? Now, a similar power is given to the Board, and I cannot see any objection to the Board being given this power of taking over the management of the property during the pendency of a suit."

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I quite appreciate the object of the Government from the kind expressions uttered by the hon. the Minister, that object being simply to appoint a person as receiver pending the settlement of disputes and pending the accession to office of the proper person. I quite understand that; but the language employed here is wide. For, a little consideration will show that my fears are not entirely ungrounded, because the clause says :

May appoint a fit person to discharge the functions of the trustee of such endowment.

But the trustee of an endowment has both secular as well as spiritual functions."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"May I draw the hon. Member's attention to the definitions of the words 'trustee' and 'endowment,' Sir?"

Rai Bahadur T. M. NARASIMHACHARLU :—"I have already seen those definitions, Sir, and we have had much discussion about them."

The hon. the RAJA OF PANAGAL :—"May I ask my hon. friend another question, Sir? If a trustee mismanages property, he is answerable for it. The trustee may have private property. If he mismanages that property, is he answerable as the trustee? Similarly, here the trustee may have other functions. If he fails to discharge those other functions, nobody will interfere with him. It is only with reference to the particular trust property that he will be made answerable."

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, with reference to the interposition of the hon. Mr. Ayyangar (laughter). We used to honour the late Sir V. Bhashyam Ayyangar by calling him 'Ayyangar' on account of his greatness. Anyhow, let us turn to the definition of the word 'trustee.' 'Trustee' means a person, by whatever designation known, in whom the administration of the affairs of a religious endowment is vested and includes any person who is liable as if he were a trustee. Now, administration of the affairs of a religious endowment is vested in a trustee. What is the administration of the affairs of a math? It is both spiritual as well as secular. There also the same doubt arises. Therefore, referring me to another doubt will not have the effect of clearing my doubt."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I think, Sir, matters will be cleared up if I refer the hon. Member to another definition, namely, that of 'religious endowment' which includes the premises of maths or temples and only the properties belonging to the math. Where there is a disputed succession, each of the disputing *matadhipatis* may receive personal gifts and offerings, but these do not come under the term 'religious endowment.'"

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Clause 38—cont.

Rai Bahadur T. M. NARASIMHACHARLU :—“ Very well, Sir, I suppose my time is very short now.”

The hon. the DEPUTY PRESIDENT :—“ Yes, your time is up ” (laughter).

Rai Bahadur T. M. NARASIMHACHARLU :—“ I shall only refer to sub-clause (2) which says : ‘ In making an appointment under sub-clause (1), the Board or committee shall have due regard to the claims of disciples, if any, in the case of maths, and of members of the family, if any, entitled to the succession in the case of temples.’ If it is only a receiver, they may appoint a first-grade pleader of some years’ standing and be done with it. Why should they have reference to the claims of the disciples and so forth in the case of *maths*? Therefore, if the Government, instead of replying to me and silencing me (laughter), would make the matter clear, we shall all be very grateful to them.”

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—“ Mr. President, Sir, I want to say just a word with your permission. I beg to point out that the difficulty is one which is real and if the hon. the Minister will introduce some expression in the clause to show that the functions of the interim trustee will be only secular, that would satisfy the requirements of the case. Sub-clause (3) says that the person so appointed shall be entitled to exercise all the powers which a trustee can exercise in relation to such endowment. What are the powers of a trustee in a *math*? The *matadhipati* being its trustee, the powers which he can exercise with reference to an endowment will be co-extensive with the powers of the religious head of the institution. I think the matter is not made quite clear. I quite see the object of this clause is to introduce a sort of *ad interim* receiver, and in order to make it clear, some expression should be used which will not impose upon a *math* any person who may claim to discharge the religious functions thereof.”

The motion was put to the House and negatived.

(Amendment No. 147.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“ Sir, I beg to move—

4-15 p.m. For the words ‘ Board in the case of maths and excepted temples and the committee in the case of other temples ’ substitute the word ‘ court ’.

“ Sir, my hon. friend, Mr. Narasimhacharlu, has laboured hard to satisfy the hon. the Raja of Panagal and make him accept his suggestion that in the case of *maths* and excepted temples, reference to the Board should be removed. He pointed out the various difficulties which would arise if such wide powers were conferred upon the Board. It will be remembered that the powers conferred on the Board under this clause are very wide notwithstanding the interpretation put upon it by the hon. the Minister in charge of the Bill and the hon. Member, Mr. Gopalaswami Ayyangar. It will be found that this does not refer expressly to the appointment of one who will stand in the position of an interim receiver. We, Sir, are acquainted with the language in the various statutes regarding the appointment of officers temporarily as receivers to take charge of estates. If the object of the framers of the Bill and of the Select Committee was only to bring into existence such officers nothing was easier than to have stated in explicit terms

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Clause 38—cont.

that during the pendency of the decision of the question an interim receiver should be appointed to take charge of the properties. In this case that is not at all done. The words used in sub-clause (d) are—

The Board in the case of maths and excepted temples and the committee in the case of other temples may appoint a fit person to discharge the functions of the trustee of such endowment . . .

“ As it has been pointed out by my hon. friend, Sir Desika Achariyan, it is also stated that the person so appointed shall be entitled to exercise the powers which would be exercised by a trustee in relation to the endowments. In addition to these difficulties, I wish to point out that if we have regard to the consideration specified in sub-clause (2) of this clause 38, namely, that

The Board or committee shall have due regard to the claims of disciples, if any, in the case of maths, and of members of the family, if any, entitled to succession in the case of temples,

it is clear that the members of the Board have very grave responsibilities to discharge in deciding this question. If, as I have suggested, the position of the Government is that an interim receiver should be appointed, then no difficulty will arise in regard to this question. If it is suggested that these words should be retained and that the Board should be empowered to appoint trustees though temporarily, then I am afraid it is a very dangerous power in the hands of the Board. It is for this reason I move an amendment suggesting that this power should be vested in the court as heretofore. It will be remembered that the constitution of the Board of Commissioners which this House has approved provides for one President and two or four other Commissioners. Let us assume that there is a Board of five Commissioners. The rules provide that the President should possess some special qualification, namely, that he should be a man with judicial experience. In the case of the other four Commissioners no qualifications are prescribed. The Government are at perfect liberty to appoint whomsoever they choose. It may be that the President alone is a man with judicial experience and the others are laymen, not possessing the necessary qualifications. What is the result? They will be entrusted with the task of deciding questions relating to claims of disciples in the case of maths or the claims to succession of members of families in the case of temples. Is it desirable in the present state of development of institutions to entrust this wide and far-reaching power to persons most of whom may be persons without the requisite judicial experience? Let us also realize that hitherto such important powers have been exercised only by courts. There are cases wherein schemes have already been sanctioned by courts. Such cases are likely to come up again before this Board of Commissioners. In view of all these facts, is it not desirable that these wide powers, which are to be exercised not merely in the case of unexcepted temples but also in the case of excepted temples and maths, should be conferred on courts? I hope, Sir, that even if my hon. friend, Mr. Narasimhacharlu, was, as we all anticipated, not successful in inducing the hon. Minister to exclude the Board, my suggestion will be acceptable to the Government in the present state of development of these institutions. It may be that the Government may appoint as Commissioners only persons having judicial experience. But we cannot be sure of the present Minister ever continuing so that he may select only persons with judicial experience for the office of Commissioners. When we are legislating, we should not

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Clause 38—cont.

be guided by such sentiments. We must take the possibility of the appointment of a person absolutely ignorant of law and we must provide for such a contingency. The Government is bound to appoint a person with judicial experience only in the case of President of the Board of Commissioners. In the case of others they may appoint mere laymen. Is it not dangerous to entrust to the Board the power of appointing a trustee though temporarily? I therefore think that this amendment deserves to be accepted by the House; but from our previous experience of the fate of all amendments, I am not quite sure of the success of my motion."

The hon. the Raja of Panagal :—"Sir, this is the old story again, namely, 'Board' *versus* 'Court', and I am afraid I cannot accept this amendment. We have repeated over and over again the reasons against the substitution of the Court for the Board. My hon. friend stated that members of the Board might not be competent to discharge satisfactorily the duties entrusted to them. In the course of his argument he himself admitted that the President at least had the requisite qualifications. So there is at least one man on the Board who has knowledge of law and if others are associated with him I cannot see how the matter will be worsened. For instance, in the case of trial by jury the jurors are not expected to be persons with the same qualifications as the Judge. At the same time they are expected to exercise their common sense and come to a decision on the guilt or otherwise of the accused. Besides I cannot understand why hon. Members should be suspicious about the appointment of these Commissioners. I fail to see what really is at the bottom of these apprehensions. As no new case has been made out, I am not able to accept the amendment."

Diwan Bahadur L. A. Govindaraghava Ayyar :—"Sir, there were some matters on which my hon. friend, the Raja of Panagal, appeared to be somewhat in the dark. He wanted to know what was at the back of all these amendments. I shall try to throw some light on them.

"The position seems to be this. We have not got sufficient confidence in the capacity of the Board that is sought to be constituted because we have not had any experience of their work so as to vest them with the full powers that this Bill contemplates they should be vested with. If we go into the history of the Charity Commissioners in England, whose capacity to manage things can in no way be compared with our own, we shall find that the extension of their powers has been gradual. It is only this that has prompted us in the first instance to take care that the Board is not vested with all kinds of powers so that if they misuse them, the mischief to the country will be of enormous magnitude. With reference to this particular question I should say that the courts are the best fitted to fulfil the functions that are prescribed by clause 38. Experience has shown us that even in the matter of the appointment of receivers, the courts are the best constituted for the purpose of deciding who may be a receiver."

The hon. the DEPUTY PRESIDENT :—"May I ask the hon. Member how the amendment under discussion is different from amendment No. 237 on the agenda which has been discussed and disposed of already?"

Diwan Bahadur L. A. Govindaraghava Ayyar :—"I submit, Sir, that the amendment No. 237 was with reference to clause 26 which deals with the occurrence of a vacancy in the office of an elected member of the committee. The present amendment relates to clause 38.

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Clause 38—cont.

" Well, Sir, I was mentioning that the courts, as suggested by our experience, were the best constituted for the purpose of appointing even receivers. Since there seems to be some doubt as to the exact position that the person that is to be appointed under this clause is to fill—whether he will be merely a receiver or whether he will be something more—it is much better that we entrust to the courts the power to appoint persons who may continue to hold office for a length of time in some cases.

" Then again it is also to be remembered that if we give the power to the court, there will be means of setting right any error or mistake that it may commit which means shall not be open in the case of the Board. For these reasons I beg to submit that my hon. friend need not assume the usual attitude with regard to the present amendment and I think he may gladly accept it."

MR. R. SRINIVASA AYYANGAR :—" Sir, I give my support to the amendment that is now under discussion. The Board that is to be constituted has yet to justify its existence, and to overload it with lot of heavy work at the very beginning of its career is undesirable and unwarranted. As my hon. friend, Mr. Govindaraghava Ayyar, put it, it is much better that the authority that discharges this heavy responsibility is an authority that will command the respect and also inspire the confidence of the people at large. I may say that while the action of a court will be subject to check by a superior court, no such guarantee is afforded and no such safeguards are provided in the case of the Board whose authority will be almost final until and unless somebody else as a result of litigation establishes his right. Therefore there is very great danger in over-weighting this body with a lot of burden, and if it is insisted that it should carry such a heavy burden, I fear the machinery may break down."

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—" Mr. President, there seems to be an impression in the minds of some people that 4-30 p.m. lawyers and persons trained in the judicial side are the only persons capable of carrying out the duties of the members of this Board. When the Board consists of a President who is a lawyer and also of men who may not be lawyers, is it to be understood, Sir, that they will be unfit to carry out and conduct the duties of the Board? May I ask this question for being answered? Whether the hon. the Raja of Panagal is a lawyer, or whether he is one who has been trained in the judicial branch; and if not, is he fit to do the duty of a Minister and to pilot this Bill now before us through the House; and is he capable of answering all the questions connected with the various amendments which are like bomb-shells thrown at him? If he is fit, don't you think that gentlemen outside the lawyer class may also have a judicial frame of mind and may have such qualifications as will enable them to carry out the duties of members of the Board? I am afraid, Sir, it is too much to say that we cannot get persons outside the lawyer class fit to undertake such duties."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Mr. President, I think my hon. friend, Sir P. Tyagaraya Chettiar, has put us a very embarrassing question. I regret that he has done so, for, I think, that it is a question which we in this House and in connexion with this Bill cannot satisfactorily

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Clause 38—cont.

answer. The question that he has asked is whether my hon. friend, who sits opposite to us and who is in charge of this measure, is competent, though he is not a lawyer, to pilot this Bill through this Council."

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—"What I asked was whether he was not capable of answering all the questions put to him."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"It is not possible to answer such a question, Sir; for it is too personal. So far as I am concerned and so far as my hon. friends on this side of the House are concerned, we shall not take up an invitation to express an opinion on the competence or otherwise of a Minister for the time being in charge of a Bill, and especially an invitation from my hon. friend, Sir P. Tyagaraya Chettiar, who is the leader of the party to which the Minister belongs."

The hon. the **DEPUTY PRESIDENT** :—"I think we need not labour the point much. The point raised by Sir P. Tyagaraya Chettiar, I think, is that there are people outside the legal profession, as well as in the circle of Judges, who are capable of dealing with these questions."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I think my hon. friend spoke in language which I really understood. Therefore, when he raised such a question and charged us with ignorance and, as he put it, too much of presumption of legal knowledge, it seems to me that it is time that a word of protest is entered. My hon. friend knows that the Minister in charge of the Bill had a Select Committee behind him to assist him, and he has the Advocate-General besides a gentleman who has been specially deputed to assist him in regard to this Bill."

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—"I said that in connexion with this Bill he was answering every question put to him here."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"That is true, but I do not know whether my hon. friend is aware of the promptings which the Minister receives now and then from gentlemen who sit behind him. I want my hon. friend to understand that he ought not to have raised a personal question such as that."

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—"I apologise to you, Sir, if I said anything personal. What I meant to say was that there was a presumption that it was only the lawyer class who could deal with such matters and that others could not. I said that such a presumption could not be maintained."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I must say that everybody knows history, and if my hon. friend says that the lawyers do not know their duty and that other persons without any legal training know as much as a lawyer does of what his trade is, I must only express my surprise at it."

"As I said, Sir, the whole question about this particular clause is as to whether the court should exercise these functions, or whether the Board should exercise. So far as the merits of this question are concerned, my hon. friends have already answered all the arguments that have been urged against this proposal. The whole point is, when you have to deal with questions of claims such as those that might arise under this clause, whether a court would be more competent to deal with this matter, or whether the

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Clause 38—cont.

Board or the committee who are not particularly trained in the judicial investigation of the respective claims of parties that might arise in these cases would be more competent. In regard to that point I submit that the more competent authority to put right such claims would be—if I may say so without any disparagement to the Board—certainly the court."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I only wish to point out that the hon. Sir P. Tyagaraya Chettiar has not correctly understood the position of those who made this motion. He started by saying that there was an unfounded impression on the part of those who made the motion that the Commissioners of the Board must be recruited only from among those who had judicial or legal training, and that otherwise they could deal with the questions that would arise. The particular motion, Sir, does not deal with all the varied functions which the Commissioners have to discharge. I am prepared to concede that there are various matters of administration, various matters of checking of accounts, various matters of a routine character, various matters of even religious observances and usages in regard to which there are other persons than lawyers who are in a position to give very good opinion or advice. When it comes to a matter of checking of accounts, there are businessmen and accountants, and when we consider the duties of the court, there are persons in that line who are better fitted for the work. But here we are only dealing with the point as to the decision of certain questions wherein questions of law may be raised; we are only dealing with questions of more or less judicial administration. If in matters of this description we suggest that it is desirable to have persons with judicial training and that for that reason the court should be substituted for the Board, it is, I think, Sir, a very reasonable position to take. I would only leave it to the House to consider whether a statement made by us, that in matters which have to be decided after weighing the evidence and after considering the rival claims of parties courts would do better than probably laymen, is acceptable or not. As regards the other questions and the challenges thrown at us, my hon. friend, Mr. Ramachandra Rao, has already answered them, and I am not expected to say anything in a personal matter like that."

The hon. the RAJA OF PANAGAL :—"Mr. President, I do not wish to join in the dispute between the Leader on the opposite side and the Leader on this side of the House. But, Sir, I was somewhat surprised at the attitude taken up by some of the members on the opposite side. They said that the Board was a body to be newly created and so advised: 'let us proceed slow; let us wait and see how it is worked and then let us entrust them with more powers'. I wish, Sir, my friends were as halting in their demands for full responsible government. They say: 'Why not we have at once full responsible government? Why should we have it by dribblets'?"

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"I rise on a point of personal explanation, Sir."

The hon. the DEPUTY PRESIDENT :—"The hon. Member has not been personally referred to."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"The hon. the Minister said, Sir, 'opposite side'."

The hon. the DEPUTY PRESIDENT :—"The hon. the Raja of Panagal may proceed."

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Clause 38—cont.

The hon. the RAJA OF PANAGAL :—“They say : ‘We do not care to have reforms by dribelets ; let us have full Self-Government at once ; even if we mismanage it, it does not matter ; that very mismanagement is to the advantage of the country’. In other words, they say ‘Good Government is no substitute for Self-Government’. Cannot we adopt the same theory here also in regard to this ? We thought that instead of one Judge sitting and disposing of all these matters, it would be much better that the Board with one President having full judicial qualifications and others sitting with him should dispose of them. Where is the harm in trying this as an experimental measure ? They say ‘let us proceed slowly.’ Where is the necessity for this extra caution ? This attitude appears to me to be somewhat unreasonable.

“Sir, as to the relative merits of the Board and of the court to dispose of these matters, the House has already decided that it is much better that the Board should be entrusted with these matters instead of the courts. So, Sir, following the decision already arrived at in this House, I think it is unnecessary to pursue the matter any further. I am not prepared to accept the amendment.”

The motion was put and lost.

(Amendment No. 148.)

Rai Bahadur T. M. NARASIMHACHARLU :—“Sir, the amendment standing in my name runs thus—

Insert the word ‘secular’ before the words ‘functions of the trustee of such endowment’.

“My object in moving this amendment is to remove the misapprehension that may exist in the minds of some as regards the powers of the person who is temporarily appointed to discharge the functions of a trustee. I suggest this, Sir, to make matters clear.”

The hon. the RAJA OF PANAGAL :—“Mr. President, it looks as though it is unnecessary. In the first place, the trusteeship, as I have already stated in replying to the arguments of my hon. friends opposite in dealing with a previous amendment, relates only to the property of the math. It does not interfere with the spiritual activities of the heads of maths. However, I would have no objection to accept this amendment had it not been for the fact that this word ‘secular,’ when it relates to the trustees of excepted temples, would mean nothing. I oppose this amendment.”

The amendment was put and lost.

(Amendment No. 149.)

Mr. M. SURYANARAYANA :—“Sir, I beg to move—

For the words ‘until another trustee succeeds to the office’ substitute the words ‘until another person establishes in a court of law his right to succeed to the office.’

I do not think any speech is required. I only want it to be made clear from the manner in which the other trustees succeed to the office by saying ‘until another person establishes in a court of law his right to succeed to the office.’”

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Clause 38—cont.

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“Mr. President, there is really no difficulty in accepting this amendment provided the hon. Member who has moved it is willing to accept a small change in the wording he has adopted. I propose to put it like this: ‘until another person establishes his right to succeed and succeeds to the office’.”

Mr. M. SURYANARAYANA :—“Sir, I accept the amendment proposed to be moved by Mr. Gopalaswami Ayyangar and withdraw mine.”

The amendment was by leave withdrawn.

(Amendment No. 150.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“Sir, I move—

For the words ‘until another trustee succeeds to the office’ substitute the following words ‘until another person establishes his right to succeed and succeeds to the office’.”

Rai Bahadur T. M. NARASIMHACHARLU :—“Sir, I object to this amendment, because, as it is, it is all right. ‘Until another trustee succeeds’ might mean that he might either succeed by the right inherent in him, by succession or by private arbitration or otherwise. The amendment proposed is very comprehensive, viz., ‘until another person establishes his right to succeed and succeeds to the office’. Suppose a predecessor dies all on a sudden in a railway accident. If this amendment is adopted, there will be a lot of difficulty for the successor to succeed to the office. I really think that this so-called amendment is worse than the original clause itself.”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“I do not press my amendment, Sir. I beg leave to withdraw it.”

The amendment was by leave withdrawn.

(Amendment No. 151.)

Mr. C. MADHAVAN NAYAR (Advocate-General) :—“Mr. President, the amendment that stands against my name runs in these terms—

Add at the end the following :—

‘Nothing in this sub-section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.’

Sir, I have moved this amendment with a view to avoid a possible inconsistency with some of the provisions of the Court of Wards Act. You will perceive that under clause 38 when a vacancy occurs in the office of a hereditary trustee or when a hereditary trustee is a minor, the Board may appoint a fit person. Now, when a vacancy occurs in the office of a hereditary trustee who is a ward under the Court of Wards, according to the Court of Wards Act, the court has got certain functions to discharge. It is with a view to avoid a possible clash between its powers and the powers of the Board under this Act that I propose this amendment.”

The hon. the RAJA OF PANAGAL :—“Sir, I accept the amendment.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“May I ask the hon. the Advocate-General whether the amendment is only in regard to succession, or in regard to the contribution to the fund of the Board ?”

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Clause 38—cont.

Mr. C. MADHAVAN NAYAR (Advocate-General) :—“ What is stated is—

Nothing in this sub-section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.

It is only in regard to sub-section (1).”

Rao Bahadur C. V. S. NARASIMHA RAJU :—“ In clause 38, sub-clause (1), paragraph 3, the words are—

No legally constituted guardian fit and willing to act.

There, the case of Court of Wards being guardian to a minor is contemplated and that is the reason why the wording is—

No legally constituted guardian.

When the Court of Wards assumes the control of an estate as guardian of the minor, it becomes the legally constituted guardian. That is provided for. Therefore, I do not see any reason why this amendment is proposed. If I remember right, the original Bill contained a general wording, but at the suggestion of one of the members of the Select Committee, that wording was changed to cover the case of a guardian under the Court of Wards Act coming as a guardian of a minor. I do not think there is any special necessity to provide a saving clause of this sort.”

Mr. C. MADHAVAN NAYAR (Advocate-General) :—“ I purposely stated at the beginning that this motion was proposed in order to avoid a possible inconsistency that may arise if the Court of Wards came in under section 63. There is no harm done if there is a provision like this. It seems my hon. friend wants the House to leave matters as they are. But I want to avoid the possible inconsistency I have referred to above.”

The motion was put and carried.

Sub-clause (2).

(Amendment No. 152.)

Mr. T. SOMASUNDARA MUDALIYAR :—“ Sir, I beg to move—

For the words ‘shall have due regard to the claims of disciples, if any, in the case of maths, and of members of the family, if any, entitled to the succession, in the case of temples’, substitute the words ‘shall choose the person from the disciples in case of maths, and from the members of or related to the family entitled to succession in case of temples. In the case of temple, if such a person be not available, any person who is interested in the temple may be appointed’.

Sir, in this connexion I wish to bring to the notice of the House the fact that there is a good deal of apprehension in the minds of hundreds of disciples of the various maths that their claims for succession will not be fully recognized. It is only to set their minds and those of the people interested in the temple affairs at rest that I have proposed this amendment.”

The hon. the RAJA OF PANAGAL :—“ Sir, the clause as it is does recognize the claims of the shishyঃ, disciples and others for succession. My friend probably requires the clause to be somewhat more specific. I do sympathize with him. If he is prepared to withdraw his amendment, I shall ask the

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Clause 38—cont.

hon. Mr. Gopalaswami Ayyangar to move an amendment in a more acceptable form. Copies of this amendment have been already distributed to hon. Members."

The motion was by leave withdrawn.

(Amendment No. 153.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Sir, I beg to move that for sub-clause (2) the following may be substituted :—

'The person to be appointed under sub-section (1) shall be a disciple in the case of a math, and the member of the family, if any, entitled to the succession in the case of a temple. Where a disciple or a member of the family as the case may be is not available, the person appointed shall be a person having interest in the math or the temple concerned '."

Rai Bahadur T. M. NARASIMHACHARLU :—"I object to the amendment. The present sub-clause allows the discretion to choose a disciple or not, because it says that the Board shall have due regard to the claims of disciples. The object of the clause, as was mentioned by the hon. the Minister, is to appoint a receiver. If that is so, why is it proposed to encroach upon the realms of the successors? The present amendment moved by the Government makes the matter worse. In the case of a math, the successor shall be a disciple. What I contend is, let it be purely an interim trustee as the hon. the Minister puts it or an interim receiver as I would put it. Do not try to take into your own hands the question of succession. That is the thin end of the wedge to give power to the Board to try and decide cases of succession. I submit if you want to guard the trust property, appoint a person who is fit to manage the property. Please do not go into the question of disciple."

The hon. the RAJA OF PANAGAL :—"Sir, to put the matter to test, I ask my hon. friend one question, and my attitude would depend upon how he answers that question. I ask him in a case like this what his feelings would be if I were to appoint a Muhammadan or a Christian gentleman as the manager. Is he prepared to accept such an appointment? Well then, if there is a distinction drawn between a Muhammadan and a Hindu, is it not fair that the distinction is drawn between those who are disciples and those who are not disciples? If among disciples there are competent men, why not we accept them as trustees in charge? That is the real test, and I ask my hon. friend whether he would have no objection to appoint a non-Hindu as a trustee."

Rao Bahadur C. V. S. NARASIMHA RAJU :—"The wording as it stands in the clause really shows that it is left to the discretion of the Board or the Committee to appoint a trustee. It means that no person has got a right to question it in a court of law whether it is rightly exercised or not. But if the amendment which is now proposed by the hon. the Expert Member is accepted, any member of the family can bring a suit in the case of this particular appointment whether it is legally right or not. Therefore in order to avoid all complications—suit against suit or multiplicity of suits—it is better and desirable to reject the new amendment and retain the original wording, which means this. Discretion is given to the Board to select one from among the

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Clause 38—cont.

disciples. That does not mean 'that regard being had' only means it is left to the discretion of the appointing authority and it cannot be questioned in a court of law."

The hon. the RAJA OF PANAGAL :—"I want to make the position of the Government clear. In this matter the sense of the House is to be taken. The attitude of the Government is neutral. Mr. Gopalaswami Ayyangar has moved his amendment. If the House is for it, it will be accepted and if it is not, it will be rejected."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"There is no difference of opinion between my hon. friend and ourselves. The whole object is to appoint an interim trustee, but if he says that the interim trustee should belong to the family of a previous trustee it may be that the question whether he belongs to that family or not may be brought under consideration. If my hon. friend also sees the other position as regards maths, viz., that somebody who is selected by the Board claims to be a disciple, it may be that when he claims to be a disciple there will be another person who says he is not a disciple of a particular math. The question whether he is a disciple or not has again to come before

5 p.m. the court as an issue. Therefore if you say that the field of selection should be limited, you will be giving room for the contention whether he is a disciple or not. In the case of temples, if you say that a member of a family entitled to succession is a fit person to be appointed as trustee, it is perfectly certain that the Board would naturally pick out a person who belongs to the community which has administered that trust. Therefore it seems to me that it is certainly much more desirable to use the word 'fit person' and to leave this word 'fit' entirely to the Board. It is with that intention my hon. friend has pointed out that the original wording is to be preferred to the wording proposed by my hon. friend, Mr. Gopalaswami Ayyangar. We have no quarrel with the Minister or the Government, and the reason for our asking to retain the original wording should not be understood as any sort of obstructive tactics for Government's proposals. We are simply pointing out that the very objects which this clause is intended to achieve will be defeated by putting these limitations."

The hon. the RAJA OF PANAGAL :—"I cannot understand what my hon. friend is driving at. I have already stated that the attitude of the Government is neutral, and I would like that this amendment may be put to vote so that the fate of this amendment may be known."

The hon. the PRESIDENT :—"The hon. Member is trying to convince the Government that they should not be neutral."

The hon. the RAJA OF PANAGAL :—"I am not convinced by the arguments advanced by the hon. Member. I think there is no harm in the Government assuming a neutral attitude."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Of course the hon. the Minister will not only remain unconvinced by this argument, but also by several other arguments. As I have already indicated in one case, the question of conviction is not easy at all."

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Clause 38—cont.

The hon. the RAJA OF PANAGAL :—“ I suppose that remark applies to the side my friend represents.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ Undoubtedly it does. As I have said already, in democratic institutions like this the majority and the minority parties have to be convinced by each other's arguments. It is only for that purpose that we are advancing our arguments but unfortunately the majority party does not seem to realize.”

The hon. the PRESIDENT :—“ Let us go to the maths.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ Well, coming to the maths, as my hon. friend says if he will be neutral, all the difficulties that have been mentioned above will arise.”

The hon. the PRESIDENT :—“ As the Government is neutral, I suppose the hon. Member, Mr. Gopalaswami Ayyangar, would wish to reply on behalf of his motion.”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“ I have nothing to say, Sir.”

The amendment of Mr. Gopalaswami Ayyangar was put to vote and lost.

Clause 38 as amended was put, carried and added to the Bill.

Clause 39.

Sub-clause (1).

(Amendment No. 154.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—“ I beg to move—

Add at the end the following :—

‘ In such forms as may be prescribed by the auditor, and the latter should submit every month to the committee concerned an abstract of their receipts and disbursements for the preceding month.’

“ Sir, if monthly returns are enforced it will facilitate the work. The tendency is to put off the work that is intended to be done to-day to to-morrow. At the end of the year the work will not be finished if the accounts are allowed to accumulate. I therefore move for the insertion of my amendment in the Bill, but if the Minister is of opinion that such a provision is made elsewhere I have no objection to withdraw the motion.”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“ Under the clause relating to rule-making powers, Government have powers to prescribe the forms and accounts to be kept. In any case, the auditor will be consulted before the Government issue rules on a subject like that, and I think the powers to prescribe those forms should be in the hands of the Government instead of the auditor himself.”

The motion was by leave withdrawn.

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Clause 39—cont.

Sub-clause (2).

(Amendment No. 155.)

Mr. C. V. VENKATARAMANA AYYANGAR :—“ I beg to move—

After the word ‘ intervals ’ insert the words ‘ of not less than one year ’.

“ Sir, it is only with the object of saying that the audit should not be made at periods within one year that I have moved this amendment. We know that maths and temples have been put to all sorts of difficulties when they are asked to produce accounts. If the period is less than one year the difficulties in producing their accounts will be much greater. I therefore move that my amendment may be accepted.”

The hon. the RAJA OF PANAGAL :—“ It is a matter that should be prescribed by the rules. I do not see any reason why we should accept this amendment.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“ ‘ Prescribed ’ means prescribed by the Government and also by rules. If maths are told beforehand that their accounts will be audited, they will know their position clearly. If at any time less than a year they are asked to submit their accounts, they will find it very difficult.”

The hon. the RAJA OF PANAGAL :—“ The hon. Member may offer his suggestion when the rules are made.”

The motion was put to vote and lost.

Clause 39 was put and carried and added to the Bill.

Clause 40.

Clause 40 was put and carried and added to the Bill.

Clause 41.

Clause 41 was put and carried and added to the Bill.

Clause 42.

Clause 42 was put and carried and added to the Bill.

Clause 43.

(Amendment No. 156.)

Mr. T. SOMASUNDARA MUDALIYAR :—“ I beg to move—

After the words ‘ this chapter ’ insert the words ‘ except section 54 ’.

“ Sir, I formally move this amendment.”

The hon. the RAJA OF PANAGAL :—“ I accept the amendment.”

The amendment was put to vote and carried.

Clause 43, as amended, was put to vote, carried and added to the Bill.

The House then adjourned at 5-15 p.m. to meet again on Monday, the 2nd April 1923, at 11 a.m.

L. D. SWAMI KANNU,
Secretary to the Legislative Council.